IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 8017 of 2004

Kalawati narayan Jadhav .. Petitioner

versus

Kashinath G. More & ors. .. Respondents

...

Mr.Madhav Jamdar for the petitoner.

Mr.M.R.Deshpande for respondent nos.1 to 3 and 5 to 8

CORAM : D.G. KARNIK, J

DATED : 23rd April 2007.

P.C.:

1. Heard learned counsel for the petitioner.

2. By this petition, the petitioner challenges the order dated 31st May 2005 passed by the Addl. Collector, Solapur confirming the judgement and order dated 31st May 2004 passed by the Tahsildar (Mamlatdar) under section 5 of the Mamlatdar Courts

Act.

3. The petitioner is the owner of Gat No.71 and respondents are the owners of land bearing Gat No.68, 66/1, 57/1-B-1A, 57/1-A/1/1, 52/4 and 59, Village Tulnur, Akkalkot, District : Solapur. The respondents made an application in Mamlatdars Court for permission to use the road on the boundary (bandh) of Gat No.71. After hearing the petitioner, the Tahsildar came to the conclusion that there existed a road on the boundary and the respondents were using it and respondents had no other road for going to their land. In view of this by an order dated 31st May 2004, he granted the permission to the respondents to use the road.

4. Aggrieved petitioner had a remedy for approaching the Civil Court under section 22 of the Mamlatdars Courts Act which could have adjudicated upon the rights of the parties. Instead of that, petitioner approached the Collector in revision which he undoubtedly could have. However the jurisdiction of the Collector in revision is limited and is not as wide as that of a civil court under section 22 of the Mamlatdar’s Courts Act. The Collector exercising the

revisional jurisdiction found no error apparent on the face of the record in the decision of the Tahsildar and therefore, dismissed the revision. That order is impugned in this Writ Petition.

5. I am not inclined to interfere for the reasons more than one. Firstly, the jurisdiction of the Collector in Revision was limited to find out the legality of the order of Tahsildar and he could not have gone into the question of fact. Yet the Collector has generally considered all the points which were urged before him and has held that the decision of the Mamlatdar is proper. This is not a fit case for interference in writ jurisdiction in the order of the Collector.

6. The petitioner had an alternative remedy of approaching the Civil Court under section 22 of the Mamlatdars Court Act.

7. In the circumstances, Writ Petition is dismissed summarily.

(D.G. KARNIK, J)